

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Robert Bryan	Team: Squad #10	CCRB Case #: 202001920	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/04/2020 4:18 PM	Location of Incident: § 87(2)(b)	Precinct: 43	18 Mo. SOL 9/4/2021	EO SOL 4/21/2022	
Date/Time CV Reported Mon, 03/09/2020 8:56 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/09/2020 8:56 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Bilal Azad	17313	958277	PSA 8
2. POM William Corchado	13567	957487	PSA 8
3. POM Freddy Difo	08770	957544	PSA 4
4. LT James Arneth	00000	936145	043 PCT
5. POM Aaron Solomon	20668	963285	043 PCT
6. POM Edwin Garcia	10122	960572	PSA 8

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Louise Rodriguez	17295	939347	RTCC
2. SGT Baury Reyes	05004	952158	PSA 8
3. POF Christine Galgano	07529	965117	110 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Aaron Solomon	Force: Police Officer Aaron Solomon used physical force against § 87(2)(b)	
B.POM William Corchado	Force: Police Officer William Corchado used physical force against § 87(2)(b)	
C.LT James Arneth	Force: Lieutenant James Arneth used physical force against § 87(2)(b)	
D.POM Edwin Garcia	Force: Police Officer Edwin Garcia used physical force against § 87(2)(b)	
E.PO Bilal Azad	Force: Police Officer Bilal Azad used physical force against § 87(2)(b)	
F.PO Bilal Azad	Discourtesy: Police Officer Bilal Azad spoke discourteously to § 87(2)(b)	
G.POM Freddy Difo	Force: Police Officer Freddy Difo used physical force against § 87(2)(b)	
H.PO Bilal Azad	Force: Police Officer Bilal Azad used physical force against § 87(2)(b)	

## Case Summary

On March 9, 2020, § 87(2)(b) filed this complaint with the CCRB.

At approximately 4:18 p.m., on March 4, 2020, § 87(2)(b) observed her daughter fighting their neighbor's daughter outside the apartment building where they both live, located at § 87(2)(b) in the Bronx. PO Bilal Azad and PO Freddy Difo, both of PSA 8, and several other officers broke up the fight and handcuffed § 87(2)(b) to a gate, but let the neighbor's daughter go. PO Aaron Solomon of the 43<sup>rd</sup> Precinct told § 87(2)(b) to back away from § 87(2)(b) because she was in police custody and he, PO William Corchado of PSA 8, Lieutenant James Arneth of the 43<sup>rd</sup> Precinct, and PO Edwin Garcia of PSA 8 simultaneously pushed her (**Allegation A—Force—Physical Force; § 87(2)(g)**) (**Allegation B—Force—Physical Force; § 87(2)(g)**) (**Allegation C—Force—Physical Force; § 87(2)(g)**) (**Allegation D—Force—Physical Force; § 87(2)(g)**). PO Azad swiftly placed § 87(2)(b) on the ground prior to arresting him (**Allegation E—Force—Physical Force; § 87(2)(g)**) and told him "Get the fuck on the ground!" (**Allegation F—Discourtesy—Word; § 87(2)(g)**). PO Difo and PO Azad brought § 87(2)(b) to the ground prior to arresting her (**Allegation G and H—Force—Physical Force; § 87(2)(g)**). § 87(2)(b) was not arrested or issued a summons as a result of the incident. § 87(2)(b) and § 87(2)(b) were arrested as a result of this incident and charged with § 87(2)(b) (**Board Review 01**).

BWC from the incident was attached to IAs 74-84 (**Board Review 2-12**). and summarized in IAs 85-88, 91-92, 97, 99, and 101-104 (**Board Review 13-24**).

## Findings and Recommendations

**Allegation (A) Force: Police Officer Aaron Solomon used physical force against § 87(2)(b)**

**Allegation (B) Force: Police Officer William Corchado used physical force against § 87(2)(b)**

**Allegation (C) Force: Lieutenant James Arneth used physical force against § 87(2)(b)**

**Allegation (D) Force: Police Officer Edwin Garcia used physical force against § 87(2)(b)**

§ 87(2)(b) stated that she returned home to her apartment building to see PO Azad, PO Difo, PO Corchado, and an unidentified fourth officer waiting for her in the building's lobby. As § 87(2)(b) was talking to the officers, someone ran into the lobby and told her that a young man was assaulting § 87(2)(b)'s daughter. § 87(2)(b) § 87(2)(b) PO Azad, and another officer ran outside to see § 87(2)(b)'s neighbor's daughter § 87(2)(b) and her boyfriend § 87(2)(b) fighting with § 87(2)(b) who was hitting him back in self-defense. § 87(2)(b) § 87(2)(b) did not want to break up the fight because she did not want to be accused of attacking someone else's child, so she asked the officers to help her. The officers broke up the fight and let the neighbor's daughter go. PO Azad handcuffed § 87(2)(b) to a chain-link fence outside the apartment building that had been placed there as part of ongoing construction a § 87(2)(b) tried to calm her down. Two officers—a white or Hispanic male officer and a white or Hispanic female officer—came out of the building. All six officers present told § 87(2)(b) to back away from § 87(2)(b) and all six of them simultaneously pushed § 87(2)(b) away and told her that § 87(2)(b) was in police custody (**Board Review 25**).

At 6:41 in part 2 of PO Corchado's BWC footage, as PO Solomon tells § 87(2)(b) to back up, she yells "I want to make sure she's good" about § 87(2)(b) who has already been handcuffed to the fence. It is not clear whether or not PO Solomon touches her. PO Corchado grabs § 87(2)(b)

§ 87(2)(b)'s right arm with his left hand and pulls her away from where the fight is occurring to the right. At 6:43, Lieutenant Arneith brushes § 87(2)(b)'s right arm with his left hand as he walks past, and PO Garcia briefly places his right hand on her left shoulder (**Board Review 04**).

PO Azad stated that he and his partners PO Corchado and PO Difo went to § 87(2)(b) to arrest § 87(2)(b) on a graffiti charge that a complaint report had been prepared for, but she informed them that she had already turned herself in. A complaint report alleged that § 87(2)(b) had a dispute with a neighbor in the same building and had defaced his apartment door, though PO Azad did not know any details of this dispute. PO Azad verified her court date and confirmed that she had turned herself in, so the officers did not arrest her. Someone (PO Azad did not recall who) entered the lobby from outside and said there was a fight going on outside, so he and his two partners exited the building to break it up. PO Azad did not recall the cause of the fight. He did not push § 87(2)(b) or see any other officer push her or use any force at any point during the incident (**Board Review 26**).

PO Difo stated that he handcuffed the girl who had been charging at § 87(2)(b)'s daughter, but he did not recall her name, and he did not have any physical interaction with any other civilians. He did not push § 87(2)(b) or see any other officer do this at any point during the incident (**Board Review 27**).

§ 87(2)(g)

NYPD Patrol Guide, Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of an officer or civilian and that the application of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, officers should consider the nature and severity of the crime and circumstances, the actions taken by the subject, the duration of the action, the immediacy of the perceived threat or harm to the subject, members of service, and bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, the number of subjects compared to the number of officers, the size, age and condition of the subject compared to the officers, the subject's violent history (if known), the presence of a hostile crowd or agitators, and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence (**Board Review 28**).

§ 87(2)(g)

**Allegation (E) Force: Police Officer Bilal Azad used physical force against § 87(2)(b)**

**Allegation (F) Discourtesy: Police Officer Bilal Azad spoke discourteously to § 87(2)(b)**

At 1:15 in part one of PO Azad's BWC, a black teenage girl walks in the front door and says that people are fighting. PO Azad follows PO Corchado out of the front door and another girl tells PO Corchado that someone is trying to fight her friend. The officers walk from the entrance to the street and take a left, where several children are fighting near the gate separating the sidewalk from the project courtyard. § 87(2)(b) appears to be fighting two black female teenagers, one of whom is wearing a yellow tracksuit. As PO Corchado grabs him and pulls him away, § 87(2)(b)

§ 87(2)(b) yells "Are you fucking crazy?" PO Azad grabs § 87(2)(b) by his sweatshirt, tells him to relax, and asks, "What's wrong with you?" The boy replies, "Alright, you got it." At 2:15 PO Azad and PO Corchado follow the sound of yelling back to the building's entrance. At 2:28, § 87(2)(b) starts yelling inaudibly at someone offscreen and PO Azad tells him to relax. At 2:31, the video ends (**Board Review 02**). Part two of PO Azad's BWC is 12 seconds long, 10 of which are without sound, and depict PO Azad holding § 87(2)(b) by his shoulders as § 87(2)(b) shouts inaudibly at someone behind PO Azad (**Board Review 05**). Part 3 of PO Azad's BWC begins with PO Azad standing behind § 87(2)(b) who is handcuffed, and holding him by his arms as § 87(2)(b) shouts inaudibly at § 87(2)(b) and the black teenager girl wearing a yellow tracksuit, whom he had been fighting with earlier. At 0:08, § 87(2)(b) approaches § 87(2)(b) and puts her left arm around the back of his neck. At 0:30, the sound comes on and the sound of yelling can be heard. At 0:36, § 87(2)(b) starts running and PO Azad continues to hold him by the arms in an apparent attempt to hold him back from the fight. At 0:40, as § 87(2)(b) charges at § 87(2)(b) and an unseen individual standing next to her, PO Azad brings § 87(2)(b) to the ground and tells him, "Sit the fuck down" (**Board Review 06**).

§ 87(2)(b) did not mention the officers using force against § 87(2)(b) or anyone matching his description (**Board Review 25**). § 87(2)(b) was not available to the investigation (see IAs for contact attempts).

PO Azad stated when he first encountered the fight occurring outside the building, the scene was "chaotic," involving a fight between § 87(2)(b) and two female juveniles. PO Azad tried to hold § 87(2)(b) back so that the fight would not escalate. A second fight broke out around the corner from the first, and PO Azad had to "pull him back and put him on the floor" when he tried to get involved with a fight by running towards it, and he was not able to break free of PO Azad's grip (PO Azad was holding him with both hands). PO Azad did not recall how he managed to get the § 87(2)(b) on the ground or what technique he used, though he did use some form of physical force (both pushing and pulling). PO Azad did not have any independent recollection of using profanity, but the BWC refreshed his memory of saying "Get the fuck on the ground." He said this so that § 87(2)(b) would comply with his order without PO Azad needing to use any additional force (**Board Review 26**).

NYPD Patrol Guide, Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of an officer or civilian and that the application of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, officers should consider the nature and severity of the crime and circumstances, the actions taken by the subject, the duration of the action, the immediacy of the perceived threat or harm to the subject, members of service, and bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, the number of subjects compared to the number of officers, the size, age and condition of the subject compared to the officers, the subject's violent history (if known), the presence of a hostile crowd or agitators, and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence (**Board Review 28**).

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

NYPD Patrol Guide, Procedure 200-02 states that officers must render their services with courtesy and civility (**Board Review 33**).

NYPD's disciplinary decisions "have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct." NYPD Disciplinary Case No. 2018-18951 (**Board Review 29**).

§ 87(2)(g)

**Allegation (G) Force: Police Officer Freddy Difo used physical force against § 87(2)(b)**

**Allegation (H) Force: Police Officer Bilal Azad used physical force against § 87(2)(b)**

At in 0:36 PO Difo's BWC, he runs over to where § 87(2)(b) is fighting § 87(2)(b) and attempts to break the fight up by getting in between them and grabbing § 87(2)(b)'s left arm with both hands. § 87(2)(b) continues to pull her arms away in an apparent attempt to break loose of PO Difo's grip, presumably to join the fight, and at 0:47 PO Difo grabs § 87(2)(b) around her waist (**Board Review 07**).

At 0:48 in part three of PO Azad's BWC, seconds after he takes § 87(2)(b) to the ground, he walks several feet from where § 87(2)(b) is laying on his back and approaches § 87(2)(b) as PO Difo attempts to prevent her from joining the fight. At 0:49, he grabs § 87(2)(b)'s left shoulder with his right hand. At 0:51, § 87(2)(b) can briefly be seen lying face down on the ground (**Board Review 06**).

At 2:43 in part two of PO Corchado's BWC, PO Difo (on the left) and PO Azad (on the right) can be seen restraining § 87(2)(b). As § 87(2)(b) attempts to run towards where the fight is occurring behind PO Corchado, PO Difo tries to hold her back and PO Azad grabs her left leg, pulling it up to trip her and bring her to the ground (**Board Review 04**).

NYPD Patrol Guide, Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of an officer or civilian and that the application of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, officers should consider the nature and severity of the crime and circumstances, the actions taken by the subject, the duration of the action, the immediacy of the perceived threat or harm to the subject, members of service, and bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, the number of subjects compared to the number of officers, the size, age and condition of the subject compared to the officers, the subject's violent history (if known), the presence of a hostile crowd or agitators, and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence (**Board Review 28**).

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 30**).
- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 34**).
- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 35**).
- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 36**).
- PO Solomon has been a member of service for five years and has been named as a subject in two prior CCRB complaints comprised of two allegations, one of which was substantiated. § 87(2)(g)
- Case 201806701 involved a substantiated allegation of discourtesy (word). The board recommended Command Level Instructions and the NYPD imposed Instructions.
- Lieutenant Arneth has been a member of service for 17 years and has been named as a subject in seventeen prior CCRB complaints comprised of 17 allegations, none of which were substantiated. § 87(2)(g)
- PO Corchado has been a member of service for seven years and has been named as a subject in five prior CCRB complaints comprised of 25 allegations, none of which were substantiated. § 87(2)(g)
- PO Azad has been a member of service for four years and has been named as a subject in three prior CCRB complaints comprised of five allegations, none of which were substantiated. § 87(2)(g)
- PO Difo has been a member of service for 11 years and has been named as a subject in two prior CCRB complaints comprised of 19 allegations, none of which were substantiated. § 87(2)(g)

## **Mediation, Civil and Criminal Histories**

- [§ 87(2)(b)] declined to mediate this complaint.
- As of May 10, 2021, the NYC Office of the Comptroller had no record of a Notice of Claim being filed regarding to this incident (**Board Review 31**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]

Squad: 10

Investigator: Robert Bryan Inv. Bryan 3/11/2022

Signature

Print Title & Name

Date

Squad Leader: Eric Rigie  
Signature

IM Eric Rigie  
Print Title & Name

3/15/2022  
Date

Reviewer: \_\_\_\_\_  
Signature

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Print Title & Name

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Date